

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JAMES R. MCDANIEL, JR.,

Plaintiff,

v.

ELY STATE PRISON et al.,

Defendants.

3:16-cv-00259-MMD-WGC

ORDER

This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. Plaintiff has submitted an application to proceed *in forma pauperis*. (ECF No. 2). Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

The Court entered a screening order on December 30, 2016. (ECF No. 9). The screening order imposed a 90-day stay and the Court entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. (ECF No. 9, 14). The Office of the Attorney General has filed a status report indicating that settlement has not been reached and informing the Court of its intent to proceed with this action. (ECF No. 20).

For the foregoing reasons, IT IS ORDERED that:

1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 2) is GRANTED. Plaintiff previously paid an initial installment of \$3.33 toward the filing fee (ECF No. 1). In the event that this action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. § 1915(b)(2).

1 2. The movant herein is permitted to maintain this action to conclusion without
2 the necessity of prepayment of any additional fees or costs or the giving of security
3 therefor. This order granting leave to proceed *in forma pauperis* shall not extend to the
4 issuance and/or service of subpoenas at government expense.

5 3. Pursuant to 28 U.S.C. § 1915(b)(2), the Nevada Department of Corrections
6 shall pay to the Clerk of the United States District Court, District of Nevada, 20% of the
7 preceding month's deposits to Plaintiff's account (**James R. McDaniel, Jr. , #79536**), in the
8 months that the account exceeds \$10.00, until the full \$350.00 filing fee has been paid for
9 this action. The Clerk of the Court shall **SEND** a copy of this order to the Finance Division
10 of the Clerk's Office. The Clerk of the Court shall also **SEND** a copy of this order to the
11 attention of the Chief of Inmate Services for the Nevada Department of Corrections,
12 P.O. Box 7011, Carson City, NV 89702.

13 4. The Clerk of the Court shall electronically **SERVE** a copy of this order and a
14 copy of Plaintiff's complaint (ECF No. 10) on the Office of the Attorney General of the
15 State of Nevada, attention Kat Howe.

16 5. Service must be perfected within ninety (90) days from the date of this order
17 pursuant to Fed. R. Civ. P. 4(m).

18 6. Subject to the findings of the screening order (ECF No. 9), within **twenty-one**
19 **(21) days** of the date of entry of this order, the Attorney General's Office shall file a notice
20 advising the Court and Plaintiff of: (a) the names of the defendants for whom it accepts
21 service; (b) the names of the defendants for whom it does not accept service, and (c) the
22 names of the defendants for whom it is filing the last-known-address information under
23 seal. As to any of the named defendants for whom the Attorney General's Office cannot
24 accept service, the Office shall file, *under seal*, but shall not serve the inmate Plaintiff the
25 last known address(es) of those defendant(s) for whom it has such information. If the last
26 known address of the defendant(s) is a post office box, the Attorney General's Office shall
27 attempt to obtain and provide the last known physical address(es).

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8. If the Attorney General accepts service of process for any named defendant(s), such defendant(s) shall file and serve an answer or other response to the complaint within **sixty (60) days** from the date of this order.

DATED: April 3, 2017.

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